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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

MARIANA V.,

Petitioner,

v.

THE SUPERIOR COURT OF ORANGE
COUNTY,

Respondent;

ORANGE COUNTY SOCIAL SERVICES
AGENCY et al.,

Real Parties in Interest.

G043253

(Super. Ct. No. DP016933)

O P I N I O N

Original proceedings; petition for a writ of mandate to challenge an order of the Superior Court of Orange County, Gary Bischoff, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Petition denied.

Bryan Patridge for Petitioner.

No appearance for Respondent.

Nicholas S. Chrisos, County Counsel, Karen L. Christensen and Julie J.

Agin, Deputy County Counsel for Real Party in Interest Orange County Social Services.

Law Office of Harold LaFlamme and Karen S. Cianfrani for the Minor.

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The juvenile court did not err when it terminated reunification services and scheduled a hearing under Welfare and Institutions section 366.26. (All further statutory references are to the Welfare and Institutions Code.) Substantial evidence supports the court's rulings. Petition denied.

I

FACTS

In April 2008, two-month-old Brandon D. was taken into custody after his father Juan D. and his mother Mariana V. engaged in an act of domestic violence while the mother was holding Brandon. Following the violence, the father held the mother and child "captive," and was arrested for "cruelty to child." After he was released from jail the following December, he was deported to Mexico.

On other occasions, the mother, while pregnant with Brandon, used methamphetamine despite knowing the risks involved. After Brandon was born, the mother also used methamphetamine during times she was Brandon's sole caregiver, and when breastfeeding. On one occasion, both parents "failed to follow up on routine or necessary medical care" for Brandon.

Brandon demonstrated "delays in all areas of development, as his muscle tone was reported to be slightly decreased, he consistently keeps his left hand in his mouth, does not exhibit any transitional skills, prefers to be in supine position, and arches frequently when in supine." He was seen by a language pathologist who found that he demonstrates "moderate delays in all areas of communication development."

In February 2009, Brandon was placed in a foster home where he still remains. After a home visit in December 2009, Orange County Social Services Agency (SSA) reported he was doing very well. Brandon's caregiver told SSA she "would love to adopt" him.

The mother was "kicked out" of a shelter in December 2008 for violation of rules, including drinking alcohol, staying out after curfew and being involved in a relationship. In November 2009, however, SSA recommended a trial return of Brandon to the mother. But the mother had moved to Illinois and was reluctant to return to California because she had "a history of hearing voices in California" and had "stopped hearing the voices once she moved to Illinois." The mother said the voices "insulted and made fun of her." She also disclosed that when she was living in Orange County, she was being treated for "hearing voices" and admitted she asked her therapist at the time not to disclose that information to the social worker. A psychological evaluation was scheduled.

The psychologist reported a history of delusions and hallucinations and stated: "While it seems that the methamphetamine addiction and use may have triggered a psychotic process, there are indications of related symptoms or precursors prior to that, all exacerbated by domestic violence and related traumatic stress." The doctor said the mother was in need of psychotropic medication and concluded: "The diagnostic impression at this time is that of psychotic disorder, not otherwise specified, rule out posttraumatic stress disorder, and adjustment disorder with depression and anxiety. [The mother] does not appear able at this time to appropriately and safely care for and protect her almost 2-year-old son, whom she has been separated from for over a year and whom she has only seen once in the past year. It is not clear that [the mother] is able to appropriately and safely care for herself at this time without the support and assistance from her family and from professional services."

SSA reported in January 2010: “[D]ue to the mother’s mental health records and the results of the psychological evaluation there are even more concerns. Due to the family reunification services allotted time having lapsed and there are now further issues that mother need to address the undersigned recommends that family reunification services be terminated. The mother at this time is not ready and able to care for her child.” In February, SSA reported that Brandon “presents with emerging symptoms of autism with a history of developmental delays.”

On February 4, 2010, the court terminated reunification services and scheduled a hearing under section 366.26. In making its rulings, the juvenile court noted the mother needed a lot of assistance to accomplish the things that she has accomplished, but that the mother has still not demonstrated she can even take care of herself, and that she still needs more support. The court went on to find that to return Brandon to the mother: “would create a substantial risk of detriment to the physical and emotional well being of the child.”

The mother filed a petition for extraordinary relief stating “the court erred in failing to return the minor to the mother because substantial evidence did not exist that the minor would be at risk of harm in mother’s care.” Both SSA and minor’s counsel agree the petition should be denied.

II

DISCUSSION

“[R]eview of the juvenile court’s finding that returning the children to the mother’s custody would be detrimental is limited to considering whether substantial evidence supports the finding. (*Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 763.)” (*Robert L. v. Superior Court* (1996) 45 Cal.App.4th 619, 625.) “We review under the substantial evidence test, which requires us to determine whether there is reasonable, credible evidence of solid value such that a reasonable trier of fact could make the

findings challenged [citation], . . .” (*In re Brian M.* (2000) 82 Cal.App.4th 1398, 1401, fn. omitted.)

“[T]he permanency review hearing shall occur within 18 months after the date the child was originally removed from the physical custody of his or her parent or legal guardian. The court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child.” (§ 366.22, subd. (a).)

Here the mother withheld pertinent evidence about her mental health from SSA. She also prevailed upon her therapist to refrain from informing SSA about her condition. Had she revealed the truth, the agency would likely have tried to direct her toward resolving her problems so that she might be in a position to care for Brandon. As things stand, however, the mother has already received all mandated reunification services. (§ 361.5, subd. (a).) The doctor does not think the mother can take care of herself or protect Brandon, a special needs child. The mother may need to begin a regime on psychotropic drugs, and any reactions or responses by her to those drugs is still unknown. Under the circumstances shown in this record, there is more than substantial evidence to support the orders and findings made by the juvenile court that return of Brandon to the mother would create a substantial risk of detriment to the physical and emotional well being of the child.

III
DISPOSITION

The petition is denied.

MOORE, J.

WE CONCUR:

BEDSWORTH, ACTING P. J.

ARONSON, J.